

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

UNITED STATES OF AMERICA,	:	
	:	
v.	:	Case No.: 1:05-cr-13 (WLS)
	:	
MARVIN KIRK JONES,	:	
	:	
Defendant.	:	
_____	:	

ORDER

Before the Court is Defendant Marvin Kirk Jones's Motion for Permission to Appeal in Forma Pauperis. (Docs. 282, 286.) As an inmate at the Wheeler Correctional Facility, Jones does not own property and does not have a monthly income. But although Jones is probably indigent, the Court denies his motion because his appeal is not taken in good faith.

Under 28 U.S.C. § 1915, a court may authorize an appeal of a criminal action or proceeding without prepayment of fees or security if the putative appellant-prisoner has filed "an affidavit that includes a statement of all assets such prisoner possesses that [he] is unable to pay such fees or give security therefor." 28 U.S.C. § 1915(a)(1).¹ "An appeal may not be taken in forma pauperis[, however,] if the trial court certifies in writing that it is not taken in good faith." *Id.* § 1915(a)(3); *see also id.* § 1915(e)(2)(B)(i)

¹ Federal Rule of Appellate Procedure 24 similarly requires a party seeking leave to appeal *in forma pauperis* to file a motion and affidavit that establishes the party's inability to pay fees and costs, the party's belief that he is entitled to redress, and a statement of the issues which the party intends to present on appeal. Fed. R. App. P. 24(a).

(mandating court's dismissal of case upon finding that action or appeal taken *in forma pauperis* is frivolous or malicious).

Jones's appeal is not taken in good faith. He apparently intends to argue on appeal the Court abused its discretion in denying his Motion to Correct Sentence. The Court lacked jurisdiction to modify his sentence. Jones did not present any authority or facts to show otherwise. Accordingly, the Court certifies that Jones's appeal is not taken in good faith.

His Motion for Permission to Appeal In Forma Pauperis (Docs. 282, 286) is **DENIED.**

SO ORDERED, this 29th day of April, 2014

/s/ W. Louis Sands
W. LOUIS SANDS, JUDGE
UNITED STATES DISTRICT COURT